



Commonwealth of Massachusetts
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Alcoholic Beverages Control Commission
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NOTICE
TO ALL LOCAL LICENSING AUTHORITIES AND
ALL HOLDERS OF A "RESTAURANT" OR "HOTEL" TYPE LICENSE
UNDER M.G.L. c. 138, § 12

The Massachusetts Legislature has amended Massachusetts law now to allow every holder of a "restaurant" or "hotel" type license issued under M.G.L. c. 138, § 12 to permit "a patron to retain and take off the premises only so much as may remain of a bottled wine purchased by the patron in conjunction with a meal and not totally consumed by the patron during such meal; provided further, that the bottle shall be resealed in accordance with regulations promulgated by the commission." No further permission or authority is required to be obtained from any licensing authority other than the "restaurant" or "hotel" type license issued under M.G.L. c. 138, § 12.

Today the Alcoholic Beverages Control Commission issued emergency regulations, effective immediately, that specifies what a "restaurant" or "hotel" type license holder must do to reseat the partially consumed bottle of wine purchased with a meal to permit a patron to carry out that partially consumed bottle of wine .

These emergency regulations require that the "restaurant" or "hotel" type license holder or its employees must:

1. securely reseat the bottle of wine;
2. place the resealed bottle in a one-time-use tamper-proof transparent bag that insures that the patron cannot gain access to the bottle while in transit after the bag is sealed;
3. securely seal the bag;
4. issue to the patron a receipt that prominently displays the date of the purchase, as well as both the purchase of the meal and the purchase of the bottle of wine;
5. affix the receipt to the sealed bag; and
6. allow only 1 bottle of wine per patron to be carried out.

License holders are reminded of their existing obligation under the ABCC's current regulation specified in [204 C.M.R. 4.04](#), (commonly referred to as the "[Happy Hour regulation](#)") to sell a bottle of wine to 1 patron only with a meal or to 2 or more patrons. The "Happy Hour Regulation" is available on the Commission's website, www.state.ma.us/abcc.

The emergency regulations issued today specify what a “meal” is in order for a “restaurant” or “hotel” type license holder to permit a patron to carry out an unfinished bottle of wine. A “meal” means “the purchase by 1 person of a diversified selection of food which ordinarily is classified as an "entree" or "main course" which ordinarily cannot be consumed without the use of tableware and which cannot be conveniently consumed while standing or walking” For a purchase by “2 or more persons” a meal means “a diversified selection of food which is priced at more than \$20.00 and ordinarily cannot be consumed without the use of tableware and which cannot be conveniently consumed while standing or walking.”

The emergency regulations will be in effect for the next 90 days, until the Commission concludes the legal process required to retain these regulations. A public hearing to take comment on the provisions of this regulation will be held within the next 60 days. Further notice of the date and time of that public hearing will be issued in a [separate Notice](#).

Licensees should be vigilant to avoid violations of G.L. c.138, § 69 and ensure that no alcoholic beverage is sold or delivered on any licensed premises to an intoxicated person. Care should also be taken to avoid violations of G.L. c.138, § 34 by ensuring not only that no one makes “a sale or delivery of any alcoholic beverage or alcohol to any person under 21 years of age, either for his own use or for the use of his parent or any other person” but also that no one furnishes, and knowingly or intentionally supplies, gives, or provides to or allows a person under 21 years of age to possess alcoholic beverages on premises or property owned or controlled by a license holder.

The Commission is sure that each of you work daily to ensure that all operations within licensed premises are structured, advertised and actually operated in compliance with all laws of the Commonwealth. Through our efforts together, we can be sure that each license serves the public need and is operated only in such a manner as to protect the common good.

Dated at Boston, Massachusetts this 2nd day of March 2006.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Eddie J. Jenkins,
Chairman